

REMARKS

Applicant and his representatives thank the Examiner and his supervisor for the courtesy of an in-person interview conducted on August 5, 2008. The present response addresses substantive points discussed during the interview. Specifically, Applicant agreed to amend the claims as pending in this application to include a hostile biophysical environment and specific parts of the body. Accordingly, the present response is believed to constitute a complete written statement of the reasons presented in the interview as warranting favorable action, as required by 37 C.F.R. §1.133.

Independent claims 1 and 18 have each been amended to recite applying the delivery vehicle to the breast. Independent claims 1, 18, and 29 have also been amended to recite that the delivery vehicle comprises L-arginine and a hostile biophysical environment containing a penetrating agent, where the penetrating agent comprises an ionic salt present at at least 5% weight by volume. Support for these amendments can be found in the specification, for example, on page 5, lines 6-7, page 6, lines 26-27, or page 10, lines 8-9. Claims 5, 6, 11, 13, 17, and 24-26 have been correspondingly cancelled without prejudice, and dependent claims 4, 9, 10, 12, 14, 15, 20, 22, and 23 have been accordingly amended to provide proper antecedent basis and/or claim dependencies.

No new matter has been added. Applicant reserves the right to pursue claims similar or identical to the claims as pending prior to amendment herein in one or more applications claiming priority to the instant application. Claims 1-4, 7-10, 12, 14-16, 18-23, and 27-29 are now pending for examination.

Rejections Under 35 U.S.C. §102(b)

Claims 1, 3, 5-9, 11-15, 17-19, 21, 22, and 24-29 have been rejected under 35 U.S.C. §102(b) as being anticipated by Fossel, U.S. Pat. Apl. Pub. No. 2003/0028169 ("Fossel").

It is not seen where Fossel discloses or suggests applying compositions to the breasts. Fossel discloses various compositions for use in increasing blood flow, among other applications. Examples of indications disclosed in Fossel include, in part, hair growth, superficial ulcers, or penis enhancement. See, e.g., paragraph 0009 of Fossel. However, Fossel

does not disclose applying such compositions to the breasts, and provides no suggestion or motivation to apply such compositions to the breasts. Furthermore, since the breasts are composed primarily of fat tissue and milk-secretion cells, and do not have a large amount of blood flow, one of ordinary skill in the art would not be able to predict, based on the teachings of Fossel directed to various medical treatments by increasing blood flow, that application of L-arginine to the breasts would have any significant effect.

Accordingly, since Fossel does not teach or suggest the invention as claimed, it is respectfully requested that the rejection of independent claims 1, 18, and 29 under 35 U.S.C. §102(b) be withdrawn. The remaining claims rejected under 35 U.S.C. §102(b) depend, either directly or indirectly, from either claims 1 or 18, and should be allowable for at least the above-mentioned reasons. Thus, it is respectfully requested that the rejection of these claims under 35 U.S.C. §102(b) be withdrawn.

Rejections Under 35 U.S.C. §103(a) in view of Fossel

Claims 10 and 23 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fossel.

These claims each ultimately depend from claims 1 or 18. For at least the reasons explained above with respect to the rejection under §102(b), independent claims 1 and 18, as amended, should be allowable over Fossel. Accordingly, while Applicant does not concede that there would have been any rational reason to modify Fossel in the manner suggested in the Office Action, the present rejection cannot stand, regardless. Thus, withdrawal of the rejection of claims 10 and 23 is respectfully requested.

Rejections Under 35 U.S.C. §103(a) in view of Fossel and Nakata

Claim 2 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Fossel in view of Nakata, et al., U.S. Patent No. 5,332,758 ("Nakata").

Claim 2 depends from claim 1. As discussed above, independent claim 1, as amended, should be allowable over Fossel. Thus, while it is not conceded that there would have been any rational reason to make the combination of Fossel and Nakata as was suggested by the Patent

Office, the rejection of claim 2 cannot stand. Accordingly, it is respectfully requested that this rejection be withdrawn.

Rejections Under 35 U.S.C. §103(a) in view of Fossel and Cooper

Claims 4 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Fossel in view of Cooper, U.S. Patent No. 6,387,081 ("Cooper").

Claims 4 and 20 respectively depend from claims 1 and 18. For at least the reasons explained above with respect to the rejection under §102(b) in view of Fossel alone, independent claims 1 and 18, as amended, should be allowable over Fossel. Accordingly, while Applicant does not concede that there would have been any rational reason to combine Fossel and Cooper in the manner suggested in the Office Action, the present rejection cannot stand, regardless. Thus, withdrawal of the rejection of claims 4 and 20 is respectfully requested.

Rejections Under 35 U.S.C. §103(a) in view of Fossel and Marty

Claim 16 has been rejected under 35 U.S.C. §103(a) as being unpatentable of Fossel in view of Marty, U.S. Patent No. 4,702,913 ("Marty").

Claim 16 is dependent on claim 1. As previously discussed, independent claim 1, as amended, should be allowable over Fossel. Accordingly, while it is not conceded that there would have been any rational reason to combine Fossel with Marty as was discussed in the Office Action, it is believed that this rejection cannot stand. Thus, Applicant respectfully requests that the rejection of claim 16 be withdrawn.

CONCLUSION


In view of the foregoing, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, any necessary extension of time is hereby requested. If there is a fee

occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825, under Docket No. S1509.70037US01.

Dated: August 11, 2008

Respectfully submitted,

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